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The MOOC Syllabus Blues: The Strategies for MOOCs and Syllabus Materials

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Many people have heralded Massive Open Online Courses (MOOCs) as a great architect of the modern “flipped classroom.” Properly defining the flipped classroom is a matter of semantics, but basically it is where instruction and reading occurs online, and the valued classroom time is spent on discussion, rather than a traditional lecture.

Coming from a law background, I have to say that this notion of “flipped classroom” is not a new thing. The law curriculum has featured a “flipped classroom” since 1870. It was on this date that Christopher Columbus Langdell walked into the classroom at Harvard Law and asked the students about what they were assigned to read the day before. (Using the Socratic method Dean Langdell asked the doubtlessly frightened student “Mr. Fox, will you state the facts in the case of *Payne v. Cave*?”). There was no standard lecture about the subject in the classroom, just discussion. This is the very origin of modern pedagogy in legal education. I considered this a good sign when HarvardX announced their first run of classes in 2012-2013, which included the first MOOC law class, CopyrightX; a return to our educational roots.

In library circles over the past two years the elephant in the room has been “How will we support MOOCs at our institution?” We are an edX institution. edX is the not-for-profit organization founded by Harvard and MIT to transform education world-wide by offering MOOCs for free. edX has engaged in a number of partnerships with other educational institutions to offer interesting courses. Many of the edX classes are offered through these institutions by their faculty, e.g. Harvard faculty teach HarvardX classes, MIT faculty teach MITx classes, etc. One of the distinct challenges to distributing a free, global curriculum online is the varied and unique copyright concerns. After some meetings with the edX teams, we decided that the library can support MOOCs best in two distinct areas: research and copyright.ⁱ

Copyright has been front and center in many MOOC classes, and many libraries, mine included, have taken a lead in this area. This is where libraries, scholarly communications offices, and rights clearance departments have been most active with MOOCs. I think this arrives naturally from our patron’s knowledge of the role of libraries and resources. *Where do the resources exist?* Ask the library. *We need articles and journals for courses?* Ask the library. *We need copies from books?* Ask the library. *We need digital images for slides?* Ask the library.

With our role clearly outlined, and with plenty to do, many edX classes turned to the libraries for help with copyright and resources for classes. At HarvardX we developed two specific tracks where we thought MOOC’s intersected with copyright: 1) third-party materials in slides used in the lectures (“presentation materials”) and 2) third-party syllabus readings or course reserves (“syllabus materials”).

Because the copyright analysis for these two kinds of materials differs in important ways, we created separate guidelines for each category. There has been litigation involving libraries and electronic reserves, and litigation with libraries and transformative use.ⁱⁱ Although many of these disputes are presently in appeal, we developed two distinct approaches to these categories based on the law to date. The approach for Presentation Materials relies heavily on educational, transformative fair use. The approach for Syllabus Materials relies on directing students to copies of the material lawfully available online or elsewhere (for example, in a library or for purchase). For this article I will be focusing on strategies for the Syllabus Materials, and the opportunities it creates for faculty to learn about copyright, open access, and publication.

In the traditional educational system, the library often serves as the place for course reserves or materials provided to students for their independent use in conjunction with the course. Sometimes these are in print; more recently they are available electronically through content management systems. When we move a course to an online MOOC format, we lose the ability to have a course reserve, whether print or electronic. MOOC students are not “traditional” students of a college or university, and therefore do not have access to the multitudes of subscription databases that could provide these readings. Nor would the MOOC students be able to access any of the print reserves at the library. MOOC students can be located anywhere around the world with internet access. Additionally, the licenses the library has with these databases do not allow the type of distribution necessary to sustain a MOOC. If we started to upload articles, textbooks, or other syllabus materials, we might find ourselves hauled into a court charged with direct, contributory, or vicarious copyright infringement.

To counter these issues I playfully named these four strategies for dealing directly with all the problems associated with syllabus materials. Each has certain advantages and disadvantages, but I have used each tactic in many MOOC classes.

1. *Let Their (Student) Fingers Do the Walking*

First, if the syllabus material (article or otherwise) is available online, for free, through an open link, then we encourage simply linking to that article. Or, alternatively, one can simply post the citation to the material with the expectation that students will acquire it for themselves (by purchasing it, borrowing it from a library, or finding it online). This method has its drawbacks. Frequently, faculty do not have syllabus materials that are open access (OA) and/or linkable. Secondly, many students (even MOOC students) expect to be able to acquire the readings, textbooks, or articles for free, or with as little burden as possible. One MOOC, that was cancelled mid-stream this year, cited the students’ dissatisfaction with the decision to assign a textbook that was not available free.ⁱⁱⁱ

Accordingly if the material is not available via an open link and may be difficult for students to obtain, we asked the faculty to consider substituting other material that is available, if feasible given the pedagogical aims, or retain a citation to the material but make it *supplemental* rather than required.

2. *The If You Can’t Beat ‘em, Join ‘em*

There is definitely something to be said for making collaborative agreements with major publishers of textbooks or journals for MOOC access. This method has the library reach out to the publishers. Perhaps the faculty only need a few chapters of a text? Perhaps a “technologically impaired” version can be released? These methods have been successful in the past.

When edX launched Introduction to Computer Science and Programming (MITx: 6.00x) taught by Prof. John Guttag and others, the MIT Press agreed to provide free access for students to an online version of the required textbook for the entire duration of the course. This open, online version offered the full-text of the book in a static, read-only format. It did not feature all the bells and whistles of a full e-version of the text (e.g. not downloadable for use offline, not searchable), but it still provided the students with the basic text they would need for the course. To enhance the deal further, MIT Press offered MOOC students a special price for the print and e-book editions at a 30% discount.

The interesting part of this method is that both the publishers and the students were very pleased with the outcome. From the publisher’s side, it increased sales. Even though there was a free static book available, sales of the print and e-book to students were quite substantial.

3. *The Permissions Dance (or the Permission Two-Step)*

Many reading this journal understand that, traditionally, when a journal accepts an article for publication, the publisher typically sends the author a publication agreement to sign and return. This agreement usually requires the author to assign the copyright to the publisher, with the author occasionally retaining limited rights.

It may not be a surprise to hear that many faculty, including the edX faculty, were not clear on how that agreement might impact their use of their authored textbooks and articles for their edX classes. Example: A faculty member wants to use their authored articles or book for class. Surprise! You have *no rights* to share this article per your publication agreement, and especially cannot share with the potential thousands of students that make up a MOOC course. Again, this level of distribution would be tantamount to serious contract breaches or copyright infringement.

However, this gives the library a great opportunity to talk with faculty about publication agreements, open access, and institutional repositories! At Harvard, through our Open Access Policy, faculty authors in participating schools grant the university a nonexclusive, irrevocable right to distribute their scholarly articles for any non-commercial purpose. Scholarly articles provided to the university are stored, preserved, and made freely accessible in digital form in DASH, Harvard University Library’s open access repository.^{iv} Many of our faculty learned about how their works could be located in DASH, and that this would be a great access point to provide links to the MOOC students. Additionally, I witnessed some faculty exploring other open repositories (subject-specific or other institutions) with the express

purpose of finding syllabus materials that matched their pedagogical aims that were also open and freely linkable. This helped avoid the *Permisson Two-Step*, and routed us back to strategy #1.

However, in the meanwhile, many faculty still felt they needed to use a specific article that was previously licensed to the publisher. At HarvardX, there is a very small team that will request, or guide faculty and staff in requesting, a free permission from the rights-holder for use in the HarvardX course. However, seeking this free permission may substantially limit the material they can acquire. Permission will likely come with some conditions and restrictions (for example it may cover only a single semester) and there must be plenty of time for the permissions process. Lastly, the faculty should prepare for adjusting readings as necessary if permission is not granted.

In my experience with all the HarvardX classes, many publishers were wary of granting permission, much less free permission. Some had never even heard of MOOCs at all. The responses varied. For example, there was a negotiation for a chapter from an IP law and economic book published by a large company (across the Atlantic), to be used a MOOC course. They asked for \$2,500 for permission to use the chapter (Note: the chapter was 17 pages from 2001). We replied that this was a non-profit, free course, and we had requested free permission. They responded with a \$1,800 offer. Again, it would have cost them nothing to give permission, and might have even driven up the sale of the book, which was printed over a decade ago. We even had the edX faculty member, who had published with them before, and reviewed numerous articles, write to them asking for help, but all to no avail. The faculty member had to try and pick another article. The publisher, many of us agreed, had missed a golden opportunity to revive the sales of a book from 2001.

4. ***Let's Make A Deal***

Many faculty and staff had learned from this previous episode with permissions. Sometimes, it is best to make a deal before publication. Prof. Greg Nagy paid attention carefully when he was signing the contract for his new book *The Ancient Greek Hero in 24 Hours*.^v

Prof. Nagy was converting his course, The Ancient Greek Hero, which he had taught for thirty-five years at Harvard, to a new online HarvardX module. At the same time, he was in negotiations with Harvard University Press (HUP) for the textbook. He desired the textbook to be free and accessible to the HarvardX students, and wanted the ability to update the text for the class, should he need to for pedagogical reasons.

In a first for both Prof. Nagy and HUP, a contract was drawn up which had Prof. Nagy forego all his revenue from the sale of the print version of the book to gain an open and free copy of the textbook. The contract gave Prof. Nagy the right to make an OA copy, in addition to a HTML version for use with his edX course. The HTML copy could be enhanced with multimedia, to enrich the user experience for the students. And lastly, it gave him the right to post the OA copy to the web site of the Center for Hellenic Studies, where Prof. Nagy serves as director.

Other faculty heard about this agreement and, as a result, some faculty authors have “gone to the mattresses” for OA access to get similar deals. One current negotiation is between a faculty author

creating a MOOC and a major textbook publisher. Reportedly, the faculty member is refusing to sign the publication agreement for the textbook unless it contains similar OA clauses for the HarvardX class access. In my experience, when the faculty are fully informed of their options, and have a clearer understanding of their own publication agreements, and the pitfalls, they are likelier to ask for a different agreement, or amend the current agreement.

In the End

We never used only one method for helping with the Syllabus Materials for any HarvardX/edX class. Some were fortunate enough to have public domain readings available on the Internet Archive or Google Books, some had open access versions available, and some publishers granted access with no terms but a simple citation requirement. The answers varied as much as the strategies.

However, what I did find was that grappling with the syllabus problems for the HarvardX/edX courses helped drive a particular mission I feel very passionate about: getting the faculty authors to understand the modern, contract, copyright, and license-bounded world we live in today, and how it affects education. Online classes, like MOOCs, will suffer greatly, and will continue to lack the rich and vast resources necessary for true learning if we don't change the nature of where our scholarship ends up or who has access. These strategies were developed as a means of both solving a problem and educating the faculty authors. An opportunity to educate faculty authors about these access issues arises each time a MOOC is proposed, and a syllabus or reading list is assembled. We need to be there. It is our job as librarians to "spread the gospel" about copyright, OA, and licensing to make future MOOCs a place where the high level of analysis and lecture can be paired with the most interesting and thought-provoking scholarship we have available in the world today.

ⁱ I will not be talking about support for MOOC research in this article. It should be noted that many MOOC's do not have a traditional research/term paper requirement like their on-ground counterparts yet.

ⁱⁱ See *Authors Guild, Inc. v. HathiTrust*, 902 F.Supp.2d 445 (2012) and *Cambridge University Press v. Becker*, 863 F.Supp.2d 1190 (2102)

ⁱⁱⁱ Kolowich, S., "Professor Leaves a MOOC in Mid-Course in Dispute Over Teaching," *Chronicle of Higher Education*, 18 Feb. 2013, <http://chronicle.com/blogs/wiredcampus/professor-leaves-a-mooc-in-mid-course-in-dispute-over-teaching/42381> (accessed 6 Sept. 2013)

^{iv} Digital Access to Scholarship at Harvard (DASH) at <http://dash.harvard.edu/>

^v Nagy, G., (2013) *The Ancient Greek Hero in 24 Hours*. Cambridge, MA. Harvard University Press.